IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1397 OF 2005

IN

WRIT PETITION NO. 2351 OF 2004

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.V.V. Pai with Mr.M.M. Pawar for the Petitioner.

Mrs.M. Thakur, A.G.P. for the Respondents.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 7TH JULY 2005

P.C. :

1. Heard Mr.Pai in support of this Civil Application. Mrs.Thakur, A.G.P. appears for the Respondents.

2. Civil Application seeks restoration of the petition which was dismissed on 28th January 2005. There are further prayers in the Civil Application that the Petitioner be permitted to occupy the premises from which he has been evicted.

3. Mr.Pai, learned counsel for the Petitioner, states that the Petitioner's wife is a cardiac patient and after being evicted from the quarters, the family is staying in the varandah of that building. He wants time until end of monsoon, by which period he will make alternative arrangement.

4. The Petitioner is a former Police Officer. He had over-stayed in the tenement which was allotted to him as quarter from the State Government. He is in arrears to the tune of Rs.1,53,856/-. According to the Petitioner, the amount comes to Rs.50,374/-. He has filed an undertaking that he will pay Rs.25,000/- out of this by end of July 2005 and the remaining by 15th September 2005.

5. In view of what is stated above and in view of the difficulties shown, we direct the State Government to permit the Petitioner to re-occupy the premises. That will be after he pays

the first instalment of Rs.25,000/-. That will also be subject to the condition that he must pay to the Respondents the remaining amount of Rs.25,374/- by 15th September 2005. If the Petitioner does not pay that amount, it will be open to the Government to once again make him vacate the premises. The Petitioner has given an undertaking that by end of December 2005 on his own he will vacate the premises and will not induct any third party. Mr.Pai has stated that he is making his alternative arrangement and shall positively shift from this tenement by end of December 2005. He will have to vacate the same and hand over the key peacefully to the concerned Government officer, failing which it will be open to the authorities to evict him physically along with his family from the premises. We direct the officer concerned to return his other belongings.

6. We make it clear that this order is entirely on humanitarian basis in

view of the difficulties pointed out. We have seen the reply filed by the Respondents. We make it clear that we are not accepting that Petitioner's arrears are only Rs.50,374/-. We are merely permitting him to pay the amount due until December 2005 as per his calculations. It will be open to the Respondents to recover the arrears as claimed by them by due process of law.

7. We allow this Civil Application to the aforesaid effect. The petition will stand restored to the file.

8. Mr.Pai is not praying for any other relief in the petition. The Petition also stands disposed of with this order.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)